

VII JORNADAS DE TIMOR DA UNIVERSIDADE DO PORTO

*The Recognition of East Timor
Annexation in the Republic of Indonesia*

by Nicola Bacci

Introduction.

"Who is East Timor?". That is what a friend of mine asked me when he saw an article I wrote for an Italian review ("La Nuova Frontiera") and which title was "Who remembers East Timor?". He thought East Timor was a man, maybe an actor or, even better, a politician. This is almost like the situation in Italy, about the knowledge of the island and the genocide of its people. Italians, except some politicians, don't know where East Timor is nor what happens there. The responsibility is in part due to mass media's and government's lack of interest: they never took care of the island.

The Italian government hasn't anything to gain or loose from the Timorese struggle. The region is so far away, the economical or political implications so rare that it doesn't matter what happened, happens and will happen in a so little and distant island. Greater problems engage Italy and its leaders.

Mass media doesn't care about East Timor because it is not of interest. Like in many other countries, only the massacre is interesting. It's the blood that headlines, while the continuous political and social struggle of a people against a power isn't enough to call people's attention. If we don't consider the period immediately after the invasion and its subsequent war or the recent Nobel Peace Prize winners, in the last fifteen years the first Italian newspaper ("Corriere della Sera") published only three articles regarding East Timor. Two of them were about the Santa Cruz massacre in November 1991, the other one in occasion of the East Timor Conference held in Manila in May 1994. About the rest, only silence.

Italians can't even count on books regarding East Timor's history or situation. If we look at the "Scientific books in Italy", published by the National research Council and the Presidency of the Ministry Council, regarding all the Italian books on market in 1996 we don't find any work on East Timor. You can find foreign works, but in a very few number. This makes the research more exciting, but doesn't help to learn more about Timor.

As an Italian student and since this is my first experience in the matter, my goal is to try to understand the question, to study the history of Timor struggle, to find out why the main countries of the world acknowledged President Suharto from 1975 on. The Australian position is the one that best explains what kind of policy the western democracies maintained during these years.

The Australian attitude about East Timor question is a "tunnel vision" towards the recognition of the annexation. In twenty years, many governments have alternated, headed by the Australian Labour Party or the Australian Liberal Party, but, as a rule, the necessity of the military (security in the Asia-Pacific region) and economical (the ASEAN impact) alliance with Indonesia never has been discussed, in scorn with the reasons of the Timorese people. We shall follow an analysis scheme dividing the Australian policy in five different steps towards the complete recognition of East Timor annexation, trying to sum up the main objectives hidden, not very well, behind it.

1. The fall of Portuguese dictatorship. Political developments in East Timor: the Australian attitude.

The first to face the changes in the eastern part of the island of Timor was the Labour Prime Minister Gough Whitlam. After the Revolution in Portugal on April 25th 1974 he was the one who considered the hypothesis of a new independent state as a threat to the area and who assisted the birth of the Timorese parties, as well as the first to give Suharto the accord about the annexation in Indonesia, in a few meetings between the end of 1974 and the beginning of 1975. He couldn't assist the invasion like Prime Minister, because his Government had fallen in November 1975.

In the period following the left wing coup in Portugal the question of East Timor attracted little attention in Australian political arena. In a Statement on the Portuguese revolution the Government didn't make mention of Timor, even if in the island new political parties were born immediately after the coup, calling to full independence or integration into Indonesia. The Labour Government didn't care about it too much.

It was in the meeting with the Indonesian President Suharto in Jakarta, on September 8th 1974, that Whitlam spoke clearly about East Timor for the first time. Whitlam didn't referred anything about the discussion, but a Department of Foreign Affairs background briefing explains what he said to the Dictator:

"Mr Whitlam is understood to have indicated Australia felt an independent Timor would be an unviable state and a potential threat to the stability of the area. But he's also thought to have made clear that the people of the colony should have the ultimate decision on their future"¹.

The expression that "an independent Timor would be an unviable state and a potential threat to the area" eventually became Whitlam's point of view. But why did he consider the weakness of a new independent state, undeveloped but rich (the Timor Gap treaty confirms it), a potential threat to the area? We'll answer the question later. Let's look now the following movements of Mr Whitlam.

During the later months Whitlam started to face the hypothesis of an act of force by Indonesia. In January 1975 he sent a letter to President Suharto, warning him against the use of force to take over Timor. Australia was opposed to an armed intervention. In April, the Prime Minister met the Indonesian Dictator in Townsville (Queensland) and, according to Mr Whitlam, Suharto assured that Indonesia wouldn't have used force in East Timor. The Australian Prime Minister believed in the man who destroyed using force the Indonesian Communist Party, and who also never renounced to crush the separatist movement in Irian Jaya. When, in August, Indonesia proposed to Portugal its intervention to restore order and promote the full de-colonisation and Lisbon refused it advancing the claim of a three-nation force of Portugueses, Indonesians and Australians for the same subject, Mr Whitlam rejected both, sustaining that Australia would never have participated in an action which could have covered Indonesian military operations in order to maintain their presence in Timor. He proposed a peace-keeping force by the UN but the idea hadn't succeeded. In a Statement of August 26th he said that Australia wouldn't have been involved in a military operation and added that anyway "Portuguese Timor is in many ways part of the Indonesian world"².

¹ See P. HASTINGS, *The Timor problem - part I*, Australian Outlook (AO), April 1975.

² See W.J. HUDSON, *Problems in Australian foreign policy, July to December 1975*, Australian Journal of Politics and History, August 1975.

Nancy Viviani, lecturer at the Australian National University, observes that "he had not moved one inch from his September 1974 stance, for in saying that Australia was not a party principal and acknowledging Indonesia's predominant interest"³.

Whitlam's position is a peace by peace puzzle, completed before his Government fell on November 11th.

Both to be condemned, Whitlam's and Australia's position could have been more honest if in the beginning the Prime Minister had sustained the integration into Indonesia. Instead, saying that "the people of the colony should have the ultimate decision on their future", he contradicts himself, or even better mocks the Timorese people.

We can't understand how to link the two expressions "an independent Timor would be.... a threat to the area" and "the people..... should have the ultimate decision on their future". What else could they choose in their decision, according to Mr Whitlam, but non self-governing under Indonesia or Portugal? Mr Whitlam position creaks against the logic.

Even years later Gough Whitlam has remained in an unclear point of view. He couldn't yet choose between integration or self-determination. He always formally repeated the two terms. In 1979, in a seminar at the Australian National University about "The Indonesian Connection", the former Prime Minister Whitlam tried to explain his Timor policy⁴. Let's follow the core of his thought.

First: Australia has always been Indonesia's friend, since her independence from Netherlands.

Secondly: his government has never had ambitions about East Timor.

Thirdly: the cause of the fall into civil war of the Timorese issue in August 1975 is the Portuguese irresponsibility and the intransigence of the parties.

Fourthly: Australia tried to put an end to the civil war and promote a dialogue between the parties.

Fifth: President Suharto always assured him that he wouldn't have used force against East Timor and that he didn't desire the colony which always called "Timor Portuguese".

Sixth: he never acknowledged an act of force or the annexation.

³ N. VIVIANI, *Australians and the Timor issue - part I*, Australian Outlook, August 1976.

⁴ E.G. WHITLAM, *Australia, Indonesia and Europe's empires*, Australian Outlook, April 1980.

Seventh: everything he says about his meetings with Suharto is unverifiable because their talks were confidential and cannot be known.

We can translate his thought in this ways. Indonesia is an emerging power in the region, Australia needs Indonesia, it is against the use of force and it hopes it will not be used. Australia will try to do whatever possible, without hurting the Indonesian partner, to avoid a bloodbath on the island. If this isn't possible you have to know that he made everything he could in finding a pacific solution. But, keep in mind that Indonesia is too important for Australia.

Mr Whitlam has been called, by some Australian journalists, Pontius Pilate⁵. He washed his hands, his only preoccupation seemed to be not in sponsoring the Indonesian behaviour.

Previously, we had left unanswered the question "why against an independent East Timor?". Let's give an answer.

Quoting Nancy Viviani⁶, the Prime Minister could think that a poor young state could invite the world powers engaging a race to gain influence on it or that it could cause difficulties to the national integrity of Indonesia, threatened by separatist movements such as in West Papua, and consequently of the whole region and ASEAN.

We can add that the Republic of East Timor should have been a new neighbour to negotiate with. First, the Australia-Indonesia seabed boundaries had been defined in 1972 except the East Timor one, due to the presence of Portugal. So, it was to be supposed that the Timor Gap could be closed better with Indonesia than with a new country. Secondly, the Timor Sea routes were too important, due to their deep waters, for western (American) nuclear submarines. Could an independent East Timor guarantee accession to that waters? Could the western alliance risk to loose that important position after the Vietnam War and the perspective of the "domino effect" in the South East Asia? Thirdly, the supposed oil-fields in the Timor continental shelf favoured the exclusion of a new partner to negotiate with. Indonesia was already a good one.

How could Australia substation a self governing East Timor, given these assumptions?

⁵ N. VIVIANI, *op. cit.* - part I

⁶ *Ibid.*

2. The invasion and the opposition to Suharto of the Liberal-National government.

The following Liberal-National Country Party Government, which entered in power after the Labour one fell the 11th of November and was confirmed by the elections of the 13th of December, opened a temporary change in the political attitude of Australia. For a few months the new Prime Minister Malcom Fraser and the Foreign Secretary Andrew Peacock opposed Indonesia.

The 7th of December Indonesian paratroopers, supported by ships, submarines and aircraft (made in the western countries), invaded and took Dili. By the end of the month they controlled the whole island, except the hills where the FRETILIN men had taken refuge. The Government had to confirm or oppose the policy of the former one.

"The choice was between silent acquiescence or the encouragement of an active role by the UN... The choice was not easy: Australian foreign policy had placed an extremely high priority on maintaining good relations with Indonesia, but they came into conflict with its traditional support for the principle of self-determination, and concern lest too compliant an attitude towards Indonesia could breed future difficulties"⁷.

It started a short period called by Michael Salla an "ambiguous opposition"⁸. We could say that this was the meaning of the Australian behaviour: "Don't worry, we say No, but we mean Yes".

A few days before the invasion, the Australian Foreign Secretary declared that the situation was extremely serious and had to be solved without the use of force, assuring the Timorese people the possibility of exercising their right to self-determination. The words, harder, are the same, more or less, of the previous Government. The 7th of December, just before the invasion, he summed up his Government thoughts:

"It is tragic for the Timorese and a matter for serious concern to the countries of the region that the de-colonisation process has broken down so completely... The present Liberal and National Country Party Government inherited the Timor crisis at the eleventh hour. We believe... that a more positive role

⁷ J.L. RICHARDSON, *Problems in Australian foreign policy, January to June 1976*, Australian Journal of Politics and History, August 1976.

⁸ M. SALLA, *Australian foreign policy and East Timor*, Australian Journal of International Affairs, November 1995.

by Australia in the earlier stages... was possible, desirable and might have had beneficial results... But we must reject any suggestion that Australia has betrayed the Timorese, or is responsible in any way of the present recourse to force... We shall continue our efforts to gain support for the UN resolution"⁹.

The day after Peacock harshly opposed against the Indonesian action:

"Indonesia's stated objective was the restoration of law and order as a necessary precondition to a proper expression by the Timorese people of their own wishes regarding their political future... but... the means used by Indonesia to achieve it was a matter of deep regret and concern on the part of the Australian Government... We do not regard the use of force as an appropriate means of solving international problems"¹⁰.

He had given instruction to the Australian ambassador in Jakarta, Richard Woolcott, to inform the Indonesian Foreign Minister Adam Malik of the Australian position.

Peacock continued to push for an UN intervention, urging the Security Council to provide for an immediate end to hostilities and the establishment of conditions for a withdrawal of Indonesian forces. Portugal was acting to shake the organism guardian of international peace's and security's respect, in order to practice the tasks in theory entrusted to it.

The 12th of December Australia voted for the first General Assembly resolution¹¹ condemning Indonesia's invasion and cheered the Security Council recommendation 384/1975 of December 22nd, that invited the Indonesian forces to withdraw from East Timor and called upon the parts to resume the de-colonisation process so suddenly interrupted¹². The pro-Timorese campaign of the UN continued during the months later. On April 22nd 1976, a second recommendation of the Security Council remained without application. The UN could do little without the active support of the main countries. The General Assembly continued to condemn Indonesia during the next years (till 1982), but the force of its resolution is almost zero.

⁹ CAMBRIDGE INTERNATIONAL DOCUMENTS SERIES, VOL.10, *East Timor and the international community, basic documents*, Cambridge University Press, 1997.

¹⁰ *Ibid.*

¹¹ See GENERAL ASSEMBLY RESOLUTION 3845 (XXX), Question of East Timor, 12 December 1975.

¹² See SECURITY COUNCIL RESOLUTION 384/1975 of 22 December 1975.

Indonesia expressed its regret for the Australian positions, accusing besides the neighbour to help FRETILIN by sending small arms to Timor. The friendship was reeling.

In spite of the Indonesian reaction Australia continued to oppose, even out of the UN. Also the Prime Minister Fraser, on January 18th, made a condemnation of Suharto's military campaign, declaring that Australia's role was to pressure towards a withdrawal of the Indonesian forces, in order to permit an act of self-determination. Two days later Mr Peacock met Suharto in Jakarta. After Adam Malik declared on January 14th that "the provisional government in East Timor has invited Indonesia to declare its sovereignty over the territory"¹³, the Australian Foreign Secretary insisted against the incorporation. The Indonesian Government assured that a process of self-determination would have taken place in the territory. It could seem strange, but Australia was fighting for the Timorese cause. Was it a real fight?

Considering what happened during the following months, we could believe it. In April Peacock went to Jakarta, in his first official visit in the Indonesian capital. He found the Defence Minister Panggabean who, arguing to Peacock's criticism, justified the Indonesian intervention like a reaction both for Indonesian own security and that of the region. Peacock smoothed his censure by talking publicly of a friendship that was big enough to withstand occasional differences and presented a gift to sweeten the situation: he had with him the announcement of an 86million A\$ (about 100million US\$) aid programme over the next three years. The friendship was still strong. Perhaps stronger than before. Australia didn't want to loose the ties with Jakarta. "For Australia any check or setback in the bilateral relationship was disproportionately more costly to its interests than to Indonesian ones"¹⁴. This is the first step towards the reconciliation with the near country. So far, so good.

But the clear change in Australian Government policy, the return to the previous acquiescence position of the Whitlam cabinet was near. The Prime Minister Fraser was preparing the debate about the recognition of the situation de-facto on the island. Australian interests were other, East Timor hadn't to trouble them. The necessity to maintain

¹³ See N. VIVIANI, *Australians and the Timor issue -part II*, Australian Outlook, December 1978.

the United States' alliance was fundamental to oppose the Soviet Presence in the Indian Ocean and the South East Asia. Indonesia was the bridge between the Indian and the Pacific Ocean, was a force to work against a "domino effect" in South East Asia. Even for Fraser's cabinet East Timor was a factor of instability for Indonesia and couldn't provoke too many troubles. These suppositions led to the pressure of the States upon Australia to resolve its differences with Indonesia over East Timor. This was the instruction given by the strongest.

Mr Peacock didn't understand it immediately. For a few months the Foreign Minister continued to use tough words against Indonesia. He condemned the integration of East Timor like the 27th province of the Republic of Indonesia on July 17, after an "act of free choice had been held" in the Assembly of the Timorese people formed in May. Since we don't know how the Timorese could elect it, we have to suppose that it had been in a democratic way. In the Indonesian democratic way of policy making.

Everything was ready for the next step. Everything, but the justice.

3. The recognition.

What is realism, what is idealism? Which choice in the Timor issue? Respect for idealism would have led to a strong support to self-determination, respect for realism would have given the contrary, the recognition of the situation, the recognition of the annexation. Morality or reality? That's the question. And this is the answer of Malcom Fraser: "realism is the keynote of foreign policy and the reality, clearly, is that East Timor is now part of Indonesia"¹⁵. Since he was pupil of Kissinger's diplomacy, perhaps had gone over the lesson again during his meeting with the American Secretary of States in July 1976. Consequently the choice: to review Australian's eight months policy, to rebuild the tie with Indonesia, to oppose East Timor self-determination.

Australia started to change its attitude, coming back to the Whitlam's acquiescence, in the late summer 1976. Observing the United States' warnings, arguing that a deterioration in Australian-Indonesian relations "could hinder American strategy for bal-

¹⁴ N. VIVIANI, *op. cit.* - part I.

ancing the military might of the Soviet Union"¹⁶ since the control of the deep waters of the Timor Sea by Indonesia could facilitate the passage between the Indian and the Pacific Oceans, Fraser called Peacock to the order. To stop anti-Indonesia pressure in the Timor issue. The first important sign of the turning policy was the delivery of a A\$250,000 in aid to Timor to be channelled through the Indonesian Red Cross, in mid August. The Indonesian Red Cross, and not the International one. East Timor was becoming an Indonesian matter. "The shift was a tacit recognition of Indonesia's control for the territory"¹⁷.

The signals of a new Australian attitude follow in the coming autumn. The Australian Delegation kept silent about East Timor during the debate at the De-colonisation Committee of the UN, in September. In October Fraser went to Jakarta. Two themes characterised the visit: recognition and a clear remark of actual Australian position.

The first matter appeared casually when Pre-talks were opened for a new seabed boundaries between the two countries. It had to be filled the Timor Gap, remained unsolved after the 1972 seabed boundary Treaty. Fraser, at the beginning of the meetings, underlined that he didn't want to give de-facto recognition of the annexation, but Indonesians tried equally to make it. They announced that the Prime Minister's visit had meant a recognition. When Fraser came back to Canberra, he had to face with the indignation of the opposition and the public opinion to his decision. He had to explain that it hadn't happened. This was the dress rehearsal of the drama that will take place in 1978. At the end of the month Peacock made clear what the Government was doing:

"The Government has not given de facto recognition but for quite clear practical reasons, such as the provision of humanitarian aid and the reuniting of families, we have to accept certain realities"¹⁸.

The second issue was the central theme of the 11 October meeting between Fraser and Suharto. There were signals of an accommodation to many Indonesian requests. What about East Timor?

"It is a complex question which was greatly complicated by the rapid changes in Portugal and

¹⁵ See *Far Eastern Economic Review*, July 30 1976.

¹⁶ P.J. BOYCE, *Problems in Australian foreign policy, July to December 1976*, Australian Journal of Politics and History, April 1977.

¹⁷ N. VIVIANI, *op. cit.* - part II.

¹⁸ P.J. BOYCE, *op. cit.*.

the break-down in that country's control and administration in East Timor¹⁹... The important thing now is to look to the future, and to alleviate as far as possible the human suffering which had come with the fighting and associated disruption in the territory²⁰.

"We have to look to the future" and "alleviate as far as possible the human suffering" will be the key words in future Australian's policy. To forget what happened, to recognise the actual situation, to be troubled only for the human rights situation: these will be the basic principles of the next twenty-one years.

On December 1st, almost one year after the invasion and after the killing of about 60,000 people in the fights and the executions operated by the Indonesian forces, Australia abstained from voting the Assembly resolution 31/53²¹, which:

- 1) "affirms the right of the people of East Timor to self-determination and independence"
- 2) "deplores the persistent refusal of the Government of Indonesia to comply with provisions of the previous General Assembly and Security Council resolutions"
- 3) "calls upon the Government of Indonesia to withdraw all its forces from the territory".

Strangely Australia disagreed with its thoughts of the previous year, when it had supported a resolution with the same subject. Something had changed. Mr Peacock is very clear regard to this:

"Our country's foreign policy, if it is to be viable, must take into account the regional environment in which it is to function, and although preserving our position of principle it has not and does not serve Australia's interests to place itself on a massive collision course with its largest regional neighbour"²².

1977 is a period of transition towards the complete recognition. The Timor issue lost attention by the public arena, a little debate remained in the political theatre. In January a little incident warmed the climate of the re-growing relationship with Indonesia. Allegations about atrocities of the Indonesian troops during the invasion opened a debate in the Australian House of Representatives. Mr Jim Dunn, the previous Australian consul in the Portuguese Timor, was the main supporter of the accusations to Indonesia. Jakarta's re-

¹⁹ See N. VIVIANI, *op. cit. part II*.

²⁰ See M. SALLA, *op. cit.*

²¹ GENERAL ASSEMBLY RESOLUTION 31/53, Question of Timor, 1 December 1976.

²² J.P. BOYCE, *op. cit.*

action was extremely strong in comparison with other moments when the Australian claims had been harder. Adam Malik, the Indonesia Foreign Minister, threatened demonstrations and reprisals against the Australian embassy in Jakarta. But the matter vanished in the following months. Nothing else happened in the year, if we except the UN General Assembly resolution 32/34 on November 28th. Australia abstained once again.²³

1978 is the years of the definitive recognition. On January 20th Peacock announced that that the Australian Government had decided to accept East Timor as part of Indonesia. After exalting the Australian policy of intervention in the humanitarian issues of the conflict, such as the A\$ aid for the Indonesian Red Cross or the Government action for the reunion of the Timorese families refugees in Australia, he analysed the political situation on the island and its implications.

"Since November 1975 the Indonesian Government has continued to extend its administrative control over the territory of East Timor. This control is effective and covers all major administrative centres of the territory... This is a reality with which we must come to terms... Accordingly, the Government has decided that although it remains critical of the means by which integration was brought about it would be unrealistic to continue to refuse to recognise de facto that East Timor is part of Indonesia"²⁴.

Three years before East Timor was an "unviable state", now it "would be unrealistic to continue to refuse to recognise that is part of Indonesia". The die is cast.

There was only space for the political debate on the matter. The Australian Labour opposition criticised hardly its Government's decision. The leader of the opposition in the Senate pronounced the strongest and heaviest words, in a Statement four days after Peacock's announcement:

"The Australian Labour Party do not accept the Australian Government's decision to grant de facto recognition to the Indonesian take over of East Timor... an act of military aggression cannot be classed as integration. The right of conquest exists no longer. It is clearly established by the consensus of the civilised communities that military conquest is not a ground of acquisition of territory. The Australian Labour Party stands by its policy that the people of East Timor have a right to self determination.

²³ It was the second and last abstention. From 1978 on Australia always voted against the resolutions.

²⁴ Announcement Made by the Minister for Foreign Affairs, Mr. A.S. Peacock, 20 January 1978, CAMBRIDGE DOCUMENTS, *op. cit.*.

Until such time that this is permitted, East Timor cannot become part of Indonesia. Indonesia has not valid claim to sovereignty over the area"²⁵.

Against the right of conquest, the key word of the Labour Party. But on February, Peacock expressed the same words of the previous month.

De facto recognition had to be followed by a de jure one. The talks in Jakarta concerning the seabed boundary negotiation with Indonesia regarding the Timor Gap hadn't still begun. Would they have meant a de jure recognition of the annexation?, asked the opposition. This is what Andrew Peacock answered, 11 of May 1978:

"Australia and Indonesia have not yet entered into negotiations on a seabed boundary between the south of East Timor and Australia. The question of whether negotiations... will amount to a de jure recognition of Indonesia's incorporation of East Timor will depend on all the circumstances existing at the time... In international law recognition is essentially a matter of intention. It must not be assumed that negotiations with Indonesia will automatically or necessarily result in a change in Australia's position on East Timor which I announced in my Statement on 20 January 1978"²⁶.

Six months later he changed his previous Statement. After having met with the Indonesian Foreign Minister, Mochtar Kusumaatmaja, he announced that Australia would have given a de jure recognition early in 1979, when negotiations on the Timor Gap would have started. Changing completely what he thought in May, Mr Peacock announced on December 15th:

"the negotiations when they start, will signify de jure recognition by Australia of the Indonesian incorporation of East Timor. Recognition is not anything other than a legal move and if you are to enter into these sorts of negotiations then recognition occurs and *so be it*"²⁷.

Australian and Indonesian officials met in Canberra from 14 to 16 February to commence negotiations on the delineation of the seabed boundary between Australia and East Timor.

²⁵ *Ibid.*, Statement by the Leader of the Opposition in the Senate, Senator Wriedt, 24 January 1978.

²⁶ *Ibid.*, Written Answer by the Minister for Foreign Affairs, Mr. A.S. Peacock, 11 May 1978.

²⁷ *Ibid.*, Announcement by the Minister for Foreign Affairs, Mr. A.S. Peacock, 15 December 1978.

4. The Labour Government confirmation.

In the period 1979-1983 the only Australian concerns regarding East Timor were those related to humanitarian affairs. They never stressed Indonesia.

1983 could have been a turning point in Australian policy towards East Timor. They could have put in discussion the previous Government's acceptance about Indonesian and Timor. The Labour party won the elections and came back to govern. Perhaps East Timor could find some support in the near country.

The Australian Labour Party never had hidden its position concerning East Timor in the eight years spent in the opposition. Every two years, in its national conferences, the ALP pushed against the Government, condemning Indonesia, Fraser and Peacock. In 1977, the party promised to recognise a government of East Timor if independence was the result of self determination. In 1978, after Peacock's declaration, we have seen how severely they criticised the Government. In 1982, in their political platform for the elections, they stated that

"the ALP recognises the inalienable right of East Timorese to self determination and independence and condemns and rejects the Australian Government's recognition of the Indonesian annexation of East Timor. The ALP opposes all defence aid to Indonesia until there is a complete withdrawal of Indonesian occupation forces from East Timor"²⁸.

The new Prime Minister Bob Hawke and his Foreign Secretary Bill Hayden had to confirm these assertions. Their political coherence had to be proved. Would they really have risked a disagreement with the most important regional partner? Would they really have vanished years of gradual approach to Jakarta to cure the Timorese interest, which wouldn't have given Australia richness nor security?

The Hawke Government answer was: NO. It was restrained by the same things that had made the policy of the previous Governments. What could Hawke do for East Timor if he considered, after a visit to the US, that Australia and America "will be together forever"²⁹? If Indonesia still was so important that Australia couldn't afford to jeopardise

²⁸ See M. SALLA, *op. cit.*.

²⁹ See H. ALBINSKI, *Australian Labour and Foreign policy*, Australian Outlook, December 1983.

relations with Jakarta by harping on what had to be acknowledged as an irreversible Indonesian incorporation of East Timor?

These priorities led to the denial of the party's purposes expressed in the electoral campaign. As the Labour Party had stated, in 1982, that it opposed "all defence aid to Indonesia until there is a complete withdrawal of Indonesian occupation forces from East Timor", the new Government continued to exercise with Indonesian forces and in the 1983/1984 budget it increased the contribution for co-operation assistance to Indonesia. As it had rejected "the Australian Government's recognition of the Indonesian annexation of East Timor", in the 1986 platform affirmed that

"the Australian Government has since 1979 recognised *de jure* the incorporation of East Timor into Indonesia and while it accepts this reality it nonetheless expresses its concern at the way in which that incorporation proceeded"³⁰.

The end of a short illusion. Australia remained tied to its international interests. How to justify the overturning in the previous party's policy is explained by the Henry Albinski³¹, when he says that Hawke has been characterised by a "conscious pragmatism, or art of the possible, in dealing with an international order that Australia of its own part cannot expect to redress to its taste. The corollary of this has been that officially constituted party policies (such as the 1982 Platform one) must be subject to review in light on any changed circumstances that might have surfaced since their original adoption". The circumstance that had surfaced since the adoption of the former 1982 Platform was the rising to Government and the tie with the Australian international interests.

In the years to come East Timor would have been only a case of human right's respect. And between these human rights to be respected, there wasn't the first one, self-determination.

The humanitarian issue caused some troubles in bilateral relationship with Indonesia, like in 1985 when Australia voted in favour of a resolution about the human right abuses in East Timor, in the UN Commission for Human Rights. Protests from Indonesia were strong, but never became dangerous for the partnership, that that "was so... substantial that it was reasonable to assume that only a very large storm would seriously disturb

³⁰ See M. SALLA, *op. cit.*

³¹ H. ALBINSKI, *op. cit.*

it”³², said Gareth Evans, new Foreign Secretary since 1988. And a “very large storm” wasn’t foreseeable in that sunny political season.

Not even after the Santa Cruz cemetery massacre in Dili, on November 1991, Australia, like many other countries, protested harshly against Indonesia, but was pleased of the punishment of a few Indonesian soldiers responsible of the killing.

5. The Timor Gap treaty and the litigation before the International Court of Justice.

The ‘80s are fundamental, because they show us which other concrete interests Australia had around East Timor. We had pointed out the beginning of negotiations since 1979 of a seabed boundary between Australia and Indonesia in the Timor Sea. The two countries had reached an agreement in 1972 concerning the sea-boundary in the Timor and Arafura Seas, except the part south of East Timor, for which Australia had to negotiate with Portugal. After the annexation, an agreement had to be found even about the Timor Gap, a 150miles interruption in the full line.

Timor Sea³³ is characterised by a deep abyss immediately south of the island. Here the Timor Deep is 3310m below sea level. So East Timor (and consequently Indonesia) hasn’t a continental shelf. Australia’s side of the Sea is instead a very little deep one; the continental shelf arrives till the Timor Deep, very near Indonesia’s territorial waters.

The agreement wasn’t easy to reach because of Australia’s claim to respect the Australian continental shelf and Indonesia’s one to observe what the new UN Convention of the Law of the Sea, signed at Montego Bay in 1982, had defined “the Economic exclusive zone”, a 200miles sea extension which permits exclusive exploitation of water’s, soil’s and subsoil’s goods. The continental shelf had been overcome. The states, according to the Convention, must find an agreement when their economical exclusive zones superpose. This wasn’t easy, because of the two states different objectives. Indonesia

³² See M. SALLA, *op. cit.*.

³³ See Map 1.

wanted to extend its seabed, Australia wanted to maintain what the previous Convention (signed at Geneva in 1958) assigned it, like continental shelf. That's why the negotiations took so many years. The problem wasn't surely East Timor status.

Australia and Indonesia wanted both the control of Timor waters because of their richness. It was supposed to be there one of the world greatest oil field. To explore and to exploit it was the goal of both countries. They only had to agree how and in which measure.

Australia had never hidden its interest in Timor's oil resources and since the early years of the century it has looked towards to them with an appetite. In 1903, J.M. Creed, a member on the New South Wales Legislative Council, explained which benefits could have come from East Timor to Australia, still a Britain colony. "The most important mineral resource will probably be petroleum of which there is a natural spring yielding several barrels of oil a day... situated about eight miles from a harbour... and will be easy to convey from the wells to tank ships by an easily constructed pipeline"³⁴. Mr Creed couldn't see his projects materialize because in 1893 Portugal and Holland had closed a three centuries dispute over the division of the island and the rights to exploit it. Australia couldn't go and take what it needed. The English colony maintained interests over Portuguese Timor and in 1909 an Australian business-man, Mr Trouton, obtained oil search concession over the eastern part of East Timor. Since 1956 an Australian company, the Timor Oil, was present in the island. In June 1972 two other Australian companies, International Oil Explorations and Amalgamated Petroleum, obtained concessions and made an agreement with Timor Oil for the first off-shore exploration in the Timor Sea, which promised good earnings. The Timorese production was still low, but the future looked fruitful.

In Canberra, May 1971, the two Governments reached a first agreement "establishing certain seabed boundaries", with regard to Arafura Sea, in front of Irian Jaya³⁵. One year later, in Jakarta, they completed the former agreement with a second one³⁶, delineating the boundaries in the remaining part of Arafura Sea and in Timor Sea. It is important to observe that "if any singular accumulation of liquid hydrocarbons or

³⁴ See P. HASTNIGS, *op. cit. part II*, Australian Outlook, August 1975.

³⁵ Agreement establishing certain seabed boundaries, CAMBRIDGE, *op. cit.*.

³⁶ Agreement establishing certain seabed boundaries in the area of Timor and Arafura Sea, *Ibid.*

natural gas, or if any other mineral deposit beneath the seabed, extends across any of the lines that are specified in the Agreement... the two Governments will seek to reach agreement on the manner in which the accumulation or deposit shall be most effectively exploited". The basis of a future co-operation had been posed.

Australia didn't find an arrangement with Portugal over the East Timor seabed delimitation. There begins the Timor Gap, which remained after the fall of Portuguese administration.

In 1979 negotiations started between Indonesia and Australia about the Timor Gap. After ten years of talks, the 11 December 1989 it was signed the "Treaty on the Zone of Co-operation between the Indonesian Province of East Timor and Northern Australia"³⁷. It was done over the zone of co-operation, not in Jakarta nor in Canberra, to exalt the spirit that surrounded the agreement. It established a zone of co-operation, instead of a strict boundary, divided in three areas, A, B and C³⁸. The northernmost one would have been administered and exploited exclusively by Indonesia, while the southern one by Australia. The central area would have been managed and exploited by the two countries thanks to a Joint Authority.

Suddenly a hard dispute was opened between Portugal and Australia, the latter accused of not respecting its international obligations, due to the violation of self-determination perpetrated by signing such a treaty.

Since 1985 Lisbon made clear its position about the on going negotiations between Canberra and Jakarta. The meetings had started in 1979, but for a few years Portugal didn't protest. According to the Press, talks were taking place in Canberra in November 1985. The Portuguese embassy presented a note to the Australian department of Foreign Affairs where stated that

"the Portuguese Government cannot but consider strange the attitude of the Australian Government in negotiating the exploration of the resources of a territory for which Portugal is the administering power, a fact which is internationally recognised... The Portuguese Government cannot but express to the Australian Government its vehement protest for the manifest lack of respect for international law"³⁹.

³⁷ CAMBRIDGE, *op. cit.*.

³⁸ See Map 2.

³⁹ Note of the Portuguese Embassy in Canberra to the Australian Department of Foreign Affairs (DFA), CAMBRIDGE, *op. cit.*.

Portugal could be right, if only Australia had recognised it as the administering power, if only Australia had held the UN resolution, upon which Lisbon counted, still tying.

Year by year the Portuguese embassy in Canberra insisted in its opposition. After the signature of the agreement, the Embassy, the 13 December 1989, directed another heavy note to the Department of Foreign Affairs and Trade of Canberra. It was affirmed the right of the East Timorese to sovereignty over the island's natural resources. The Embassy also promised of exercising "the right to resort to all legal means it will consider as convenient to uphold the legitimate right of the East Timorese"⁴⁰.

Australia had its turn. In an article published by the Australian department of Foreign Affairs and Trade, the Government explained its point of view:

The Timor Gap Zone of Co-operation Treaty... represents a creative solution to a diplomatic impasse on resolution of a boundary dispute between neighbour countries... While removing a potential source of bilateral and regional friction, Australia's signing of the Treaty has been criticised by the Portuguese Government... Australia rejects absolutely the Portuguese claims... Conclusion of the Timor gap Treaty does not, as matter of international law, signify Australia's approval of Indonesia's acquisition of the territory of East Timor... The assertion that the people of East Timor have permanent sovereignty rights over the seabed resources in the Zone of Co-operation is not accepted by Australia... The conclusion of the Treaty in no way impedes Australia's efforts on behalf of the East Timorese. Indeed, it is hoped that closer relations with Indonesia flowing from the negotiations will provide Australia with a more influential position from which to help the people of East Timor"⁴¹:

No comment. Canberra's observations are too clear, given the fifteen years policy towards East Timor.

When the Treaty became law in Australia the 9th of February 1991, Portugal reacted once again. The 22nd of February it commenced a litigation before the International Court of Justice against the validity of the agreement. The same day it presented a long note to the Australian Government, summing up the arguments of the Portuguese opposition to the Treaty. Australia reacted surprised to the institution of the proceeding before the Court but accepted to go on with the judgement. Anyway the Court didn't solve the question. On June 30th the International Court of Justice declared:

⁴⁰ Note of the Embassy of Portugal in Canberra to the DFA, CAMBRIDGE, *op. cit.*.

⁴¹ Article by the Australian DFA and Trade, CAMBRIDGE, *op. cit.*.

"the Court finds that it cannot in the present case exercise jurisdiction conferred upon it by the declarations made by the parties under article 36 paragraph 2 of its Statute to adjudicate upon the dispute referred to it by the application of the Portuguese Republic"⁴². The cause was the non participation to the judgement of the third state part to the treaty, Indonesia.

The response couldn't be different. It's only with the consent of every part that international law can explain its jurisdictional function, until a universal international law will be codified and accepted by the whole international community. Portugal couldn't not know it. Portugal litigation was looser since the start. But it was the substance of it that has a significative role. To light, after fifteen years of silence, the attention of the international community over the destiny of East Timor. And this was the only chance offered to Portugal in February 1991.

The occasion wasn't the last, but once again nobody made anything to help East Timor to fight against stronger powers.

Conclusions.

I hope to have realised the goal exposed at the beginning. With few materials, the ones that I've been able to collect till now, I've tried to sum up the lines of Australian policy towards East Timor.

Honestly, it has been dirty. Or, at least, ambiguous. Australia slowly showed its real behaviour about the Timor issue. And, what is worse, never had a strong own policy. Only in the moment immediately after the invasion, Canberra was able to make its choice without external constrictions, but when the climate became more lukewarm it always was constricted by its political or economical ties to review the steps had made for the East Timorese cause.

For a few months Australia seemed to be able to act by its own. But it wasn't the real owner of its actions. "Australia may have thought she was going as a courtier, but

⁴² I.C.J. Reports 1995, East Timor (Portugal v. Australia) Judgement.

she was treated as a courtesan... If Australia took the opportunity to take the lead in implementing the Portuguese proposals, it would certainly restore some of the credibility - moral and political - she has lost over her response to the Indonesian occupation of East Timor"⁴³.

Nicola Bacci, Pietrasanta 2/7/1997

Map 1: South East Asia deeps.



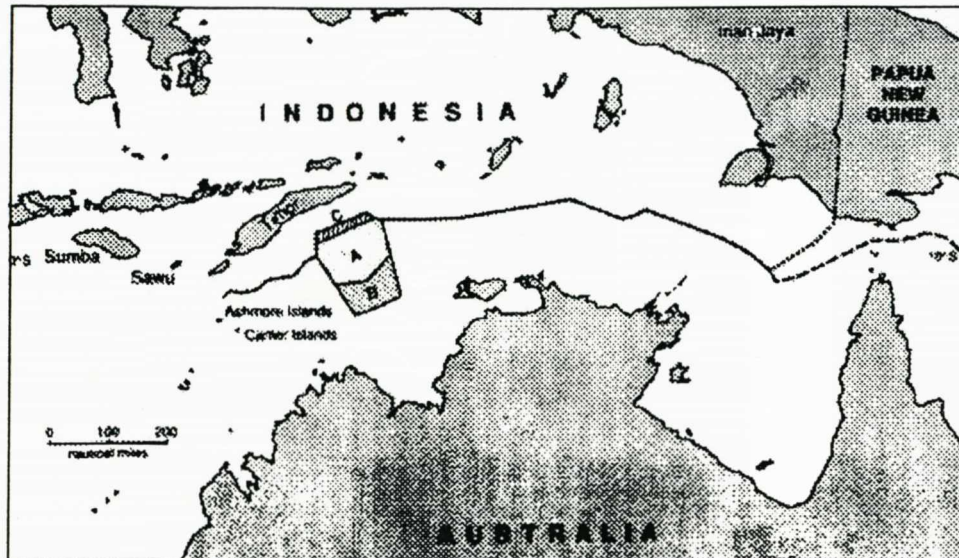
Waters in the Indian and Pacific Ocean, the Australian and Indonesian continental shelf, the Timor Deep (3310 m).

It's pretty easy, notwithstanding the map not too clear, to see how East Timor surrounding waters were important for American nuclear submarines' routes across the Indian and the Pacific Oceans.

Source: *Hammond Atlas of the world*, 1997.

⁴³ S. NICTERLEIN, *Australia: courtier or courtesan? The Timor issue revisited*, AO, April 1982.

Map 2: the Timor Gap seabed boundary.



A: Zone of joint exploitation.

B: Australian exclusive area, with an Indonesian share to the profits.

C: Indonesian exclusive area, with an Australian share to the profits.

Source: JEAN-PIERRE LE FONTEYNE, *The Portuguese Timor Gap litigation before the International Court of Justice*, Australian Journal of International Affairs, August 1995.